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Status of the Protocols Additional to the Geneva Conventions of 1949 and relating to the protection of victims of armed conflicts

Report of the Sixth Committee

Rapporteur: Mr. Karim **Medrek** (Morocco)

I. Introduction

1. The item entitled "Status of the Protocols Additional to the Geneva Conventions of 1949 and relating to the protection of victims of armed conflicts" was included in the provisional agenda of the fifty-seventh session of the General Assembly pursuant to Assembly resolution 55/148 of 12 December 2000.

2. At its 19th plenary meeting, on 20 September 2002, the General Assembly, on the recommendation of the General Committee, decided to include the item in its agenda and to allocate it to the Sixth Committee.

3. The Sixth Committee considered the item at its 7th and 18th meetings, on 2 and 22 October 2002. The views of the representatives who spoke during the Committee's consideration of the item are reflected in the relevant summary records (A/C.6/57/SR.7 and 18).

4. For its consideration of the item, the Committee had before it the report of the Secretary-General (A/57/164 and Add.1).

II. Consideration of draft resolution A/C.6/57/L.17

5. At the 18th meeting, on 22 October, the representative of Sweden, on behalf of Antigua and Barbuda, Argentina, Australia, Austria, Belarus, Belgium, Belize, Benin, Bolivia, Bosnia and Herzegovina, Brazil, Bulgaria, Burkina Faso, Cambodia, Cameroon, Canada, Chile, the Congo, Costa Rica, Côte d'Ivoire, Croatia, Cuba, Cyprus, the Czech Republic, Denmark, Ecuador, Ethiopia, Fiji, Finland, France, Gabon, the Gambia, Germany, Greece, Guatemala, Hungary, Iceland, Ireland, Italy,

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Jamaica, Jordan, Kenya, Latvia, Liechtenstein, Lithuania, Luxembourg, Malawi, Mexico, Monaco, Mongolia, Mozambique, the Netherlands, New Zealand, Norway, Panama, Peru, Poland, Portugal, the Republic of Korea, the Republic of Moldova, Romania, the Russian Federation, Senegal, Sierra Leone, Slovakia, Slovenia, South Africa, Spain, the Sudan, Suriname, Swaziland, Sweden, Switzerland, the former Yugoslav Republic of Macedonia, Trinidad and Tobago, Ukraine, the United Kingdom of Great Britain and Northern Ireland, Uruguay, Yugoslavia and Zambia, subsequently joined by Malta, introduced a draft resolution entitled "Status of the Protocols Additional to the Geneva Conventions of 1949 and relating to the protection of victims of armed conflicts" (A/C.6/57/L.17).

6. At the same meeting, the Committee adopted draft resolution A/C.6/57/L.17 without a vote (see para. 8).

7. After the adoption of the draft resolution, the representatives of Israel and Egypt made statements in explanation of position; the representative of Jordan also made a statement (see A/C.6/57/SR.18).

III. Recommendation of the Sixth Committee

8. The Sixth Committee recommends to the General Assembly the adoption of the following draft resolution:

Status of the Protocols Additional to the Geneva Conventions of 1949 and relating to the protection of victims of armed conflicts

The General Assembly,

Recalling its resolutions 32/44 of 8 December 1977, 34/51 of 23 November 1979, 37/116 of 16 December 1982, 39/77 of 13 December 1984, 41/72 of 3 December 1986, 43/161 of 9 December 1988, 45/38 of 28 November 1990, 47/30 of 25 November 1992, 49/48 of 9 December 1994, 51/155 of 16 December 1996, 53/96 of 8 December 1998 and 55/148 of 12 December 2000,

Having considered the report of the Secretary-General on the status of the Protocols Additional to the Geneva Conventions of 1949 and relating to the protection of victims of armed conflicts,[1]

Thanking Member States and the International Committee of the Red Cross for their contribution to the report of the Secretary-General,

Convinced of the continuing value of established humanitarian rules relating to armed conflicts and the need to respect and ensure respect for those rules in all circumstances within the scope of the relevant international instruments, pending the earliest possible termination of such conflicts,

Stressing the possibility of making use of the International Fact-Finding Commission in relation to an armed conflict, pursuant to article 90 of Protocol I,[2] and recalling that the International Fact-Finding Commission may, where necessary,

[1] A/57/164 and Add.1.

[2] United Nations, *Treaty Series*, vol. 1125, No. 17512.

facilitate, through its good offices, the restoration of an attitude of respect for the Geneva Conventions[3] and the Protocol,

Stressing also the need for consolidating the existing body of international humanitarian law through its universal acceptance and the need for wide dissemination and full implementation of such law at the national level, and expressing concern about all violations of the Geneva Conventions and the two additional Protocols,[4]

Noting with satisfaction the increasing number of national commissions and other bodies involved in advising authorities at the national level on the implementation, dissemination and development of international humanitarian law,

Noting with appreciation the meeting of representatives of those bodies organized by the International Committee of the Red Cross at Geneva on 25 and 26 March 2002 to facilitate the sharing of concrete experience and an exchange of views on their roles and on the challenges they face,

Mindful of the role of the International Committee of the Red Cross in offering protection to the victims of armed conflicts,

Noting with appreciation the continuing efforts of the International Committee of the Red Cross to promote and disseminate knowledge of international humanitarian law, in particular the Geneva Conventions and the two additional Protocols,

Recalling that the Twenty-sixth International Conference of the Red Cross and Red Crescent endorsed the recommendations of the Intergovernmental Group of Experts on the Protection of War Victims, including the recommendation that the depositary of the Geneva Conventions should organize periodic meetings of States parties to the Conventions to consider general problems regarding the application of international humanitarian law,

Welcoming the adoption, at The Hague on 26 March 1999, of a second Protocol[5] to the 1954 Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict,[6] and appreciating the ratifications received so far,

Acknowledging the fact that the Rome Statute of the International Criminal Court,[7] which entered into force on 1 July 2002, includes the most serious crimes of international concern under international humanitarian law, and that the Statute, while recalling that it is the duty of every State to exercise its criminal jurisdiction over those responsible for such crimes, shows the determination of the international community to put an end to impunity for the perpetrators of such crimes and thus to contribute to their prevention,

Acknowledging the usefulness of discussing in the General Assembly the status of instruments of international humanitarian law relevant to the protection of victims of armed conflicts,

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[3] Ibid., vol. 75, Nos. 970-973.
[4] Ibid., vol. 1125, Nos. 17512 and 17513.
[5] *International Legal Materials*, vol. XXXVIII, p. 769.
[6] United Nations, *Treaty Series*, vol. 249, No. 3511.
[7] A/CONF.183/9.

Noting the twenty-fifth anniversary of the additional Protocols to the Geneva Conventions, which occurred in June 2002, as well as the commemorative events organized, in particular, by Switzerland and the International Committee of the Red Cross, recalling the important achievement of enhancing the protection of civilians in armed conflicts,

1. *Appreciates* the virtually universal acceptance of the Geneva Conventions of 1949,[3] and notes the trend towards a similarly wide acceptance of the two additional Protocols of 1977;[4]

2. *Appeals* to all States parties to the Geneva Conventions that have not yet done so to consider becoming parties to the additional Protocols at the earliest possible date;

3. *Calls upon* all States that are already parties to Protocol I,[2] or those States not parties, on becoming parties to Protocol I, to make the declaration provided for under article 90 of that Protocol;

4. *Calls upon* all States that have not yet done so to consider becoming parties to the 1954 Convention for the Protection of Cultural Property in the Event of Armed Conflict[6] and the two Protocols thereto, and to other relevant treaties on international humanitarian law relating to the protection of victims of armed conflict;

5. *Calls upon* all States parties to the Protocols Additional to the Geneva Conventions to ensure their wide dissemination and full implementation;

6. *Notes with appreciation* the Plan of Action adopted by the Twenty-seventh International Conference of the Red Cross and Red Crescent, in particular the reiteration of the importance of universal adherence to treaties on humanitarian law and their effective implementation at the national level, and welcomes the efforts made by many States towards the fulfilment of their pledges relating to international humanitarian law made at that Conference;

7. *Affirms* the necessity of making the implementation of international humanitarian law more effective;

8. *Welcomes* the advisory service activities of the International Committee of the Red Cross in supporting efforts made by Member States to take legislative and administrative action to implement international humanitarian law and in promoting the exchange of information on those efforts between Governments;

9. *Welcomes also* the increasing numbers of national commissions or committees for the implementation of international humanitarian law and for promoting the incorporation of treaties on international humanitarian law into national law and disseminating the rules of international humanitarian law;

10. *Welcomes further* the entry into force on 12 February 2002 of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict,[8] and calls upon all States to consider becoming parties to that Protocol;

11. *Requests* the Secretary-General to submit to the General Assembly at its fifty-ninth session a report on the status of the additional Protocols relating to the

[8] Resolution 54/263, annex I.

protection of victims of armed conflicts, as well as on measures taken to strengthen the existing body of international humanitarian law, inter alia, with respect to its dissemination and full implementation at the national level, based on information received from Member States and the International Committee of the Red Cross;

12. *Decides* to include in the provisional agenda of its fifty-ninth session the item entitled "Status of the Protocols Additional to the Geneva Conventions of 1949 and relating to the protection of victims of armed conflicts".